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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/188,810 11/09/98 GILLIN

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EXAMINER

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MORGAN & FINNEGAN
1775 EYE STREET SUITE 400
WASHINGTON DC 20006

AKERS, G

ART UNIT

PAPER NUMBER

2164

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/188,810

Applicant(s)

Gilllin

Examiner

Geoffrey Akers

Art Unit

2164



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 2, 2001
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 2164

DETAILED ACTION

Response to Amendment

1. The text of those sections of Title 35 US Code not included in this action can be found in a prior Office Action(See Serial No: 09/188810). The text of those sections of Title 35 US Code not otherwise provided in a prior Office action will be included in this action where appropriate.
2. This action is responsive to the amendment filed 3/2/01.
3. Claims 1-43 are pending.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 9-18,20,22-38,40 are rejected under 35 USC 103(a) as unpatentable over Fleming(US Pat. No: 5,953,710) and further in view of Sugimori(US Pat. No: 6,047,265).The rejections as stated in the First Office Action are maintained.
6. As per claim 1, Fleming teaches a method comprising a plurality(col 3 lines 41-42) of charge accounts of a type normally issued with an associated physically producible card which may be presented as evidence of an existing charge account, the physically producible cards bearing human readable account numbers and expiration dates, the plurality of charge accounts being capable of being gifted to a party(col 3 lines 5-32), and receiving a request from a first party to

Art Unit: 2164

gift a charge account to a second party having a name(col 3 lines 35-67)(Fig 1/2/4/6/8/10/12/14/16/18/20), without both the issuance and provision of a physical card for the charge account to the second party, the first party and the second party being different from each other(Fig 1/1/4). Fleming teaches the charge account being usable in the name of the second party(child) at any merchant who is capable of seeking authorization(col 5 lines 12-13)(Fig. 1/4), using an authorization infrastructure for purchases involving charge accounts for which the physically producible cards are issued(Fig 1/2), whether or not the physical cards evidencing the accounts are presented by purchasers when a purchase is made accepting an account parameter selected by the first party. Fleming fails to teach the use of e-mail to advise the recipient of the gift of the card. Sugimori teaches informing the second party of the account by sending an e-mail to the second party(col 3 lines 25-38) the e-mail containing a greeting selected by the first party and directing the second party to perform a specified action in order to cause an activation of the account activating the account for usage by the second party according to the account parameter(col 1 lines 49-59) receiving an indication that the second party has made a purchase from a merchant using the account(col 5 lines 13-18)(Fig. 1/6/8/12(a)) and undertaking a settling transaction involving the account after the usage by the second party(col 5 lines 19-24)(Fig 1/10/14/16/20).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach a system providing for the gifting of charge accounts from one party to another using the Internet.

Art Unit: 2164

7. As per claim 2 Sugimori teaches the method of claim 1 further comprising the step of providing a purchaser accessible interface via the world wide web through which the first party can present the request to gift the charge account to the second party(Fig. 3(a)).Fleming teaches the transfer of the charge account from a first to a second party(col 3 lines 11-32). It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach the method that a donor may request the gift of a credit card to a recipient via the Internet.

8. As per claim 3, Fleming teaches the method of claim 1 further comprising the step of establishing an account for storage of funds usable for settling an economic transaction associated with one of the plurality of charge accounts(Fig 2/34).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach the method for storage of funds usable for settling a transaction.

9. As per claim 4, Fleming teaches the method of claim I wherein the activating step further comprises the step of ensuring that the authorization infrastructure will authorize the purchase from the merchant as long as an account activity parameter is not violated(Fig 1/14)(col 5 lines 19-22).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach conditions under which an authorized purchase will occur.

Art Unit: 2164

10. As per claim 9 Sugimori teaches the method of claim 5 wherein the informing step further comprises the step of sending an e-mail to the second party(Fig 3(d))(Fig 8(a)).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach communication with the second party by the first party via the internet.

11. As per claim 10, Sugimori teaches the method of claim 5 wherein the informing step farther comprises the step of directing the second party to a website associated with the gift certificate(col 5 lines 48-59)(col 6 lines 19-34).It would have been obvious to one skilled in the art at the time of the invention to combine Sugimori in view of Fleming to teach the above. The motivation for this is to teach the enablement of directing a recipient to a location on the Internet for receiving the gift.

12. As per claim 11 Sugimori teaches the method of claim 5 further comprising the step of allowing the first party to select a greeting to the second party(col 7 lines 37-54).It would have been obvious to one skilled in the art at the time of the invention to combine Sugimori in view of Fleming to teach the above. The motivation for this is to teach the selection of a greeting (communication) by the first party to the second party.

13. As per claim 12 Sugimori teaches the method of claim 5 further comprising the step of sending a thank you notification to the first party from the second party(col 7 line 64-col 8 line 8).It would have been obvious to one skilled in the art at the time of the invention to combine

Art Unit: 2164

Sugimori in view of Fleming to teach the above. The motivation for this is to teach the selection of an acknowledgement (communication) by the second party to the first party.

14. As per claim 13 Sugimori teaches the method of claim 5 further comprising the step of requiring the second party to take a specified action before performing the activating step(col 7 lines 64-67).It would have been obvious to one skilled in the art at the time of the invention to combine Sugimori in view of Fleming to teach the above. The motivation for this is to teach the initiation of an action by the second party as a check prior to activation of its response.

15. As per claim 14 Sugimori teaches the method of claim 5 wherein the informing step comprises an online portion and an offline portion(Fig. 3)(Fig 2(d)(c)(e)(f)).It would have been obvious to one skilled in the art at the time of the invention to combine Sugimori in view of Fleming to teach the above. The motivation for this is to describe the networking of the gift presentation system.

16. As per claim 15 Sugimori teaches the method of claim 13 wherein the online portion comprises at least two parts, one of the parts involving a different medium than another of the parts(Fig 2(e)(b)).It would have been obvious to one skilled in the art at the time of the invention to combine Sugimori in view of Fleming to teach the above. The motivation for this is to describe the networking of the gift presentation system.

17. As per claim 16 Sugimori teaches the method of claim 5 wherein the receiving step further comprises the step of processing the request using information provided by the first party in an online purchase form(Fig 9/C6).It would have been obvious to one skilled in the art at the time of

Art Unit: 2164

the invention to combine Sugimori in view of Fleming to teach the above. The motivation for this is to describe the architecture of the gift presentation system.

18. As per claim 17 Sugimori teaches the method of claim 5 further comprising the step of providing an accessible URL address for facilitating the receiving step(Fig 12B(1054b)).

It would have been obvious to one skilled in the art at the time of the invention to combine Sugimori in view of Fleming to teach the above. The motivation for this is to describe the protocol of the gift presentation system.

19. As per claim 18 Sugimori teaches the method of claim 5 further comprising the step of providing an accessible URL address for facilitating a response by the second party to the informing step(Fig. 13C(4051c)).It would have been obvious to one skilled in the art at the time of the invention to combine Sugimori in view of Fleming to teach the above. The motivation for this is to describe the protocol of the gift presentation system.

20. As per claim 22 Fleming teaches a method comprising making an instrument of a purchaser selectable value available for purchase by a first person in a name of a second person(col 3 lines 5-11) a purchase of which will result in the maintaining of a payment card account associated with the second person(col 3 lines 12-14), although no physical card is both issued for the account and provided to the second person at a time when the second person uses the payment card account(col 3 lines 14-26), the payment card account being maintainable so that when an economic transaction with a merchant occurs in accordance with the instrument parameters the economic transaction will be authorized using the authorization infrastructure of a

Art Unit: 2164

card association authorization entity normally used to authorize transactions involving a physical payment card account and invoking a notification procedure in response to the purchase(col 5 lines 10-24).Fleming fails to teach an online transaction. Sugimori teaches an online gift-presentation system(col 1 lines 9-18).It would have been obvious to one skilled in the art at the time of the invention to combine Sugimori in view of Fleming to teach the above. The motivation is to teach an online gift system for credit accounts.

21. As per claim 23 Fleming teaches the method of claim 22 wherein the payment card account is one of a credit card account whereby an outstanding balance due need not necessarily be paid at the end of a billing period(col 12 lines 31-35) a debit card account whereby at the time of the economic transaction with the merchant an amount for the economic transaction is transferred from the payment card account to the merchant(col 12 lines 57-col 13 line 23) or a charge card account whereby an account balance must be paid in full at the end of a billing period(col 5 lines 40-62)(col 12 lines 36-42).

22. As per claim 24 Sugimori teaches the method of claim 23 wherein the invoking step is followed by the step of sending an e-mail to the second person(Fig 3(d))(Fig 17(d)).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach sending e-mail as a communication between the donor and donee in a gift presentation system for charge accounts.

23. As per claim 25 Sugimori teaches the method of claim 24 further including the step of executing a process which will construct a transfer instrument according to a template selected by

Art Unit: 2164

the first person(col 5 lines 60-col 6 line 5)(Fig. 1/11).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above.

The motivation for this is to teach a transfer template in the gift presentation system.

24. As per claim 26 Sugimori teaches the method of claim 23 further comprising the step of acting according to a post-purchase criteria(col 13 lines 13-40).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach a protocol that is implemented in the gift presentation system in the post purchase stage.

25. As per claim 27 Fleming teaches the method of claim 26 wherein the acting step includes one of informing the first person that a use of the payment card account has occurred informing the first person of when a use of the payment card account has occurred or identifying the merchant to the first person(col 5 lines 12-16).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach a notification procedures that are implemented in the gift presentation system in the post purchase stage.

26. As per claim 28 Fleming teaches the method of claim 23 further comprising the step of allowing the second person to specify a criterion related to a use of the payment card(col 6 lines 60-61).

Art Unit: 2164

27. As per claim 29 Fleming teaches the method of claim 23 further comprising the step of providing redemption instructions to the second person(col 7 lines 10-11)(col7 lines 31-33)(Fig 2a/54).

28. As per claim 30 Fleming teaches a method comprising a credit card account which is linked to a national card account of a plurality of national card accounts(col 3 lines 41-42), without both issuing and providing a physical card for the national card account to the recipient of the online credit account having been established by a purchaser, who is not also the recipient(col 3 lines 5-32), and containing all information necessary for the purchase of at least one of goods or services from any merchant who is capable of processing economic transactions involving one of the plurality of national card accounts for which a physical card has issued(Fig 1/2), but without presentment of the physical card(col 5 lines 12-13)(Fig 1/4).Fleming fails to teach an online transaction and the issuing to a recipient of an online electronic packet. Sugimori teaches an electronic packet sent to a recipient(second party)(col 3 lines 25-38).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach the linking of a credit card account to a national card account used online to gift credit accounts to recipients.

29. As per claim 31 Fleming teaches a method of providing for purchase of a gift comprising the steps of assigning a credit card account to a first party at the request of a second party(col 3 lines 11-32) upon tender by the second party of a request to charge a credit card belonging to the second party in an amount at least as great as a maximum credit limit(col 6 lines 60-61) to be

Art Unit: 2164

available for the first party when purchase is made by the first party as a gift of the second party using the credit card account the credit card account being usable by the first party in the first party's name(col 5 lines 40-42). Sugimori teaches no physical card for the credit card account being both issued and provided to the first party at the time the purchase is made using the account(col 1 lines 39-59). Fleming teaches an authorization for the purchase is sought by a merchant using the authorization infrastructure, and an approval is received by the merchant over the authorization infrastructure(col 5 lines 12-19). It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach the online credit account gift presentation system.

30. As per claim 32, Fleming teaches a gift of credit method comprising the steps of a first party to transfer credit as a gift to a second party(col 3 lines 12-32) and charging a credit card belonging to the first party in a first amount (col 5 lines 40-42) and assigning a credit card account issued by a bank to a second party having a credit limit related to the first amount, the credit card account being one of a plurality of credit card accounts of a type wherein physical cards are issued to people named on the accounts(col 5 lines 25-26) and the physical cards are usable to make a purchase on credit of at least one of goods or services, and authorization of charges to the accounts are performed using an authorization infrastructure of a card association of which the bank is a member(col 5 lines 16-24) and informing the second party of the credit card account(col 6 lines 60-67), the credit card account being used by the second party in the second party's name without any financial liability being borne by the second party as a result of a use of the credit card

Art Unit: 2164

account, and no physical card for credit card account being both issued and provided to the second party at the time an authorization for an economic transaction between the second party and a merchant is performed, using the authorization infrastructure whereby, when the use of the credit card account occurs the second person will be using credit of the first person(col 5 lines 10-16). Fleming fails to teach an online transaction. Sugimori teaches an online gift presentation system. It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach a gift of credit accounts online.

31. As per claim 33, Fleming teaches a method comprising providing a plurality of zero value debit card accounts to a first party and assignable to a second party(col 3 lines 35-37), the accounts being of a type wherein physical cards are issued to people named on the accounts(col 3 lines 38-39) the physical cards are usable to purchase at least one of goods or services, authorization of uses of the accounts are performed using a card association authorization infrastructure(Fig 1/6)(col 4 lines 65-67) and balances in the accounts are determined as a result of the purchase of the at least one of goods or services(col 6 lines 38-47) an assignment from the first party to the second party to occur of an amount at least as great as a maximum value to be available when a purchase is made using the account, the account being usable by the second party in the second party's name(col 5 lines 12-13)(Fig 1/4) and no physical card for the account being issued and provided to the second party at the time an authorization is performed, using the card association authorization infrastructure, as a result of the second party purchasing one of

Art Unit: 2164

goods or services using the account(col 5 lines 25-32). Fleming fails to teach the implementation of a third party in the transactions. It would have been obvious to one skilled in the art to implement a starting agent as a third party to commence the gift transactions. The motivation for this is to have an initialization of the transactions.

32. As per claim 33 Fleming teaches the method of claim 33 comprising the further step of authorizing a purchase transaction involving the second party, and a retail merchant(col 5 lines 12-13). Fleming fails to teach an e-account. Sugimori teaches the use of an e-account(col 1 lines 10-17)(col 1 lines 40-48). It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach an online purchase transaction involving a second party and a merchant.

33. As per claim 35 Fleming teaches a method comprising providing a plurality of zero balance credit card accounts(col 3 lines 43-44) to a first party assignable to a second party the accounts being of a type wherein physical cards are issued to people named on the account(col 3 lines 38-39) the physical cards are usable to purchase at least one of goods or services on credit, and authorization of charges to the accounts are performed using a card association authorization infrastructure(Fig. 1/6)(col 4 lines 65-67), and credit is extended as a result of the purchase of the at least one of goods or services(col 6 lines 38-47) using the accounts unless there is an offsetting balance in the account at the time of posting, an assignment from the first party to the second party to occur from an approval to charge a major credit card of a third party, in an amount at least as great as a maximum credit line to be available for the amount when a purchase is made

Art Unit: 2164

using the account, the account being usable by the second party in the second party's name(col 5 lines 12-13)(Fig 1/4). Sugimori teaches no physical card for the credit card account being both issued and provided to the first party at the time the purchase is made using the account(col 1 lines 39-59). Fleming teaches an authorization for the purchase is sought by a merchant using the authorization infrastructure, and an approval is received by the merchant over the authorization infrastructure(col 5 lines 12-19).It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach the online credit account gift presentation system. Fleming also fails to teach the implementation if a third party in the transactions. It would have been obvious to one skilled in the art to implement a starting agent as a third party to commence the gift transactions. The motivation for this is to have an initialization of the transactions.

34. As per claim 36 Fleming teaches the method of claim 35 comprising the further step of noting a clearing transaction for the account as a result of a usage of the account by the second party(col 6 lines 52-67).

35. As per claim 37, Fleming teaches a system comprising a database having at least one table and a processor coupled to the database(Fig 2)(Fig 3) the database being configured to under control of the processor(Fig 1)(Fig3/74/22), maintain a record of a payment card account registered to a first person at the request of a second person(col 3 lines 11-32) and for no time at, or before. Fleming fails to teach that when the second person buys from a merchant and pays by referencing the payment card account no physical card for the payment card account will have

Art Unit: 2164

been provided to the second person. Sugimori teaches the use of no physical card in an online gifting system(col 5 lines 32-47). It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach a credit card gift system.

36. As per claim 38 Sugimori teaches a system comprising: an interface to the internet, the interface being correlated to an IP address for a webpage(col 5 lines 32-47) and a processor capable of displaying the webpage to a person connected to the internet(Fig 4/405)(col 8 line 30), the webpage including a link which, when selected, will connect the person to a server having a communicative relationship with a database(Fig. 5) the database being configured to maintain a records of payment card accounts of a type for which a physical card normally is provided to an individual to whom an account is registered(Fig. 5/208). Sugimori fails to teach one of the payment card accounts being registerable to a first person at the request of a second person. Fleming teaches this(col 3 lines 12-32). Sugimori teaches that the payment card account being maintained such that, at the time the second person buys from a merchant and provides payment by referencing the payment card account, no physical card for the payment card account will have been provided to the second person.(col 1 lines 49-59). It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach an online gifting system.

Art Unit: 2164

37. As per claim 40 Fleming teaches a method comprising converting a payment card account of a first type for which a payment card has issued and been provided to a first person the payment card account being usable solely in a name of the first person(col 5 lines 10-11), into a payment card account of a second type, usable by a second person(col 5 lines 12-13), having a name different than the name of the first person(col 5 lines 40-42). Fleming fails to teach without issuing and providing a physical card for the payment card account of the second type to the second person at a time of, or prior to, when the second person uses the payment card account of the second type in a purchase transaction with a merchant. Sugimori teaches this(col 1 lines 39-59). It would have been obvious to one skilled in the art at the time of the invention to combine Fleming in view of Sugimori to teach the above. The motivation for this is to teach distinct registrations in the established on line credit accounts.

Claim Rejections - 35 USC § 102

The following is a quotation that forms the basis of rejections made under 35 USC 102 in this Office Action.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

38. Claims 5-8, 19, 21, 41-43 are rejected under 35 USC 102(e) as unpatentable over Fleming(US Pat. No: 5,953,710).

39. As per claim 5, Fleming teaches a method comprising receiving a request from a first party for a gift certificate for a second party having a name(col 5 lines 40-62), the gift certificate being

Art Unit: 2164

an indication of a charge account but without both an issuance and provision of a physical card for the charge account or provision of a presentable gift certificate to the second party, the charge account being usable solely in the name of the second party(col 5 lines 42-45) and having an associated first party selectable account parameter(col 5 lines 40-43) and being capable of having a purchase made using the account authorized using an authorization infrastructure of a card association and informing the second party of the account(col 3 lines 11-14) and activating the account for usage by the second party(col 3 lines 35-39)(col 3 lines 49-54).

40. As per claim 6, Fleming teaches the method of claim 5 further comprising the step of acquiring a plurality of charge accounts capable of being gifted, after acquisition(col 3 lines 38-39).

41. As per claim 7 Fleming teaches the method of claim 5 further comprising the step of accepting a payment from the first party(col 3 lines 56-57).

42. As per claim 8 Fleming teaches the method of claim 5 further comprising the step of receiving selection of the account parameter from the first party(col 6 lines 42-44) ,the selection being one of, a specified value, a maximum credit limit, a delivery date, a start date, an expiration date, a duration, a billing dress, a location for funds from which charges by the second party will be paid, a notification method, or a usage notification arrangement(col 6 lines 60-67).

43. As per claim 19 Fleming teaches the method of claim 5 further comprising the step of funding a DDA account associated with the charge account(col 3 lines 33-37).

Art Unit: 2164

44. As per claim 21 Fleming teaches the method of claim 5 wherein the charge account is one of a MasterCard or VISA account and a transaction involving the second party and the charge account is authorized in the same manner as would be done for a mail order/telephone order purchase transaction involving MasterCard or VISA accounts for which physical cards have been issued(col 5 lines 10-24).

45. As per claim 41 Fleming teaches the method of claim 5 wherein activation occurs at the same time as informing the second party is done. This is receiving a request from a first party for a gift certificate for a second party having a name(col 5 lines 40-62), the gift certificate being an indication of a charge account but without both an issuance and provision of a physical card for the charge account or provision of a presentable gift certificate to the second party, the charge account being usable solely in the name of the second party(col 5 lines 42-45) and having an associated first party selectable account parameter(col 5 lines 40-43) and being capable of having a purchase made using the account authorized using an authorization infrastructure of a card association and informing the second party of the account(col 3 lines 11-14) and activating the account for usage by the second party(col 3 lines 35-39)(col 3 lines 49-54).

46. As per claim 42 Fleming teaches the method of claim 5 wherein activation occurs before informing the second party is complete. This is receiving a request from a first party for a gift certificate for a second party having a name(col 5 lines 40-62), the gift certificate being an indication of a charge account but without both an issuance and provision of a physical card for the charge account or provision of a presentable gift certificate to the second party, the charge

Art Unit: 2164

account being usable solely in the name of the second party(col 5 lines 42-45) and having an associated first party selectable account parameter(col 5 lines 40-43) and being capable of having a purchase made using the account authorized using an authorization infrastructure of a card association and informing the second party of the account(col 3 lines 11-14) and activating the account for usage by the second party(col 3 lines 35-39)(col 3 lines 49-54).

47. As per claim 43, Fleming teaches a method comprising the following that occur in sequence: receiving a request from a first party for a gift certificate for a second party having a name(col 5 lines 40-62), the gift certificate being an indication of a charge account but without both an issuance and provision of a physical card for the charge account or provision of a presentable gift certificate to the second party, the charge account being usable solely in the name of the second party(col 5 lines 42-45) and having an associated first party selectable account parameter(col 5 lines 40-43) and being capable of having a purchase made using the account authorized using an authorization infrastructure of a card association and informing the second party of the account(col 3 lines 11-14) and activating the account for usage by the second party(col 3 lines 35-39)(col 3 lines 49-54).

48. Claim 39 is rejected under 35 USC 102(e) as anticipated by Sugimori(US Pat. No: 6,047,265).

49. As per claim 39 Sugimori teaches a transfer instrument comprising a processor accessible storage media; and a database record located on the storage media(Fig. 1/24)(Fig 5/110(410)),

Art Unit: 2164

the database record including a plurality of fields(Fig. 7), the fields being configured for holding data which will allow a person to make a purchase(Fig 8), using a payment card account indicated by the record, as if the payment card account had an associated physically presentable card in a name of the person even though, at or before a time when the payment card account is used to make the purchase, no physical card will have been both issued and physically provided to the person(col 1 lines 39-59).

Response to Arguments

50. Applicant's arguments filed 3/2/01 have been fully considered but they are not persuasive. Motivation to combine in the present instance may be found in the knowledge of those skilled in the art as aware of references in the field. Published patents are references in the field accessible to a skilled researcher and have as much degree of relevance that the researchers would accord them. The nature of the problem to be solved, namely a transfer instrument invokes citation of those patents that speak to this element. These are certainly present in the instant case.

Applicant argues that the Office Action does not cite prior art having an element involving providing a credit, debit or charge account to a party who will use the account "without both the issuance and provision of a physical card". Fleming provides this(col 3 lines 5-32)(Fig 3)(Fig 4)(col 4 line 55-col 5 line 32)(Fig 1/2/4)(col 5 line 39-62). Applicant fails to specifically address the citations as delineated herein in the claims by Examiner. Usage of the Internet is old and well known in e-commerce transactions.

Art Unit: 2164

Applicant hinges an argument on the phrase “making an instrument of a purchaser selectable value available for purchase”. Fleming certainly teaches use of a supervised credit card usage by a child by another individual, as there is also a limit placed on the child’s account(col 3 lines 11-32). And there are real purchases made in the child’s account(col 4 lines 46-53)(col 5 lines 10-62). Finally, applicant’s discussion of a “gift certificate”(page 10/applicant’s response) is includable for the reasons cited above with respect to physical cards. Applicant’s invention lacks novelty and inventive step.

Conclusion

51. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 2164

Questions regarding this communication are to be directed to the examiner, Dr. Geoffrey Akers, P.E. who may be reached at (703)-306-5844 between the hours of 6:30 AM and 5:00 PM Monday through Friday. If attempts to contact the examiner are unsuccessful, the examiner's supervisor, Mr. Vincent Millin, SPE may be telephoned at (703)-308-1065.

GRA

May 23, 2001

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